

APPEAL NO. 040465
FILED APRIL 15, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 22, 2004. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on _____, and that he did not have disability. The claimant appeals, contending that the hearing officer erred in deciding that he did not sustain a compensable injury and that he did not have disability. The respondent (self-insured) asserts that sufficient evidence supports the hearing officer's decision.

DECISION

Affirmed, as reformed herein.

The claimant points out several errors in the hearing officer's decision which we believe can be corrected by reforming the hearing officer's decision. We do not believe that the reformations are sufficient grounds for reversal of the hearing officer's decision. We reform the hearing officer's decision to reflect that Claimant's Exhibit No. 10 is a letter from Dr. W dated October 20, 2003 (not a report from Dr. L as noted in the hearing officer's decision). The hearing officer correctly noted that Dr. L's reports are in Claimant's Exhibit No. 9 and Carrier's Exhibit No. 3. We also reform the hearing officer's decision to reflect that Dr. W diagnosed an acute lumbar strain on June 19, 2003 (not a back sprain as noted by the hearing officer). We reform the Attorney Fees section of the hearing officer's decision to delete the statement that an attorney represented the claimant. The hearing officer correctly noted at the CCH and in the beginning of her decision that the claimant was assisted by an ombudsman at the CCH.

The claimant had the burden to prove that he sustained a compensable injury as defined by Section 401.011(10) and that he had disability as defined by Section 401.011(16). Conflicting evidence was presented at the CCH on the issue of whether the claimant sustained a compensable injury. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. With regard to the claimant's assertion that treatment for his prior work-related back injury had ceased before he sustained the claimed new injury, Dr. W noted in his letter that the claimant was still being treated by him for the prior injury when the claimed new injury occurred. Although there is conflicting evidence in this case, we conclude that the hearing officer's determination that the claimant did not sustain a compensable injury on _____, is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). The hearing officer did not err in determining that the claimant has not had disability as a result of the

claimed injury of _____, because, without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

As reformed herein, we affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**UNITED STATES CORP COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Edward Vilano
Appeals Judge